

SENATE BILL 221

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2003 Regular Session
(3r1656)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Economic Matters --

Introduced by **Senator Conway**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Nonresident Real Estate Brokers - Commercial Real Estate - Reciprocity~~
3 Real Estate Brokers - Advertisements and Reciprocity

4 FOR the purpose of altering the deadline by which certain names and trade names
5 must be displayed in a certain manner in order for licensed real estate
6 salespersons or licensed associate real estate brokers to advertise; adding a new
7 part to a certain subtitle of the Business Occupations and Professions Article;
8 requiring a nonresident real estate broker to meet certain conditions in order to
9 engage in a commercial real estate transaction in this State; requiring a certain
10 written application to be submitted to the State Real Estate Commission before
11 a nonresident real estate broker may provide services; requiring a nonresident
12 real estate salesperson to meet certain conditions in order to provide certain real
13 estate services in this State; establishing a fee for a temporary license; imposing
14 certain reciprocity requirements; allocating certain trust money to be received
15 and deposited in a certain fund; designating the Executive Director of the State
16 Real Estate Commission as the agent for certain real estate brokers and
17 salespersons with regard to a subpoena, summons, or other process; defining

1 certain terms; and generally relating to nonresident real estate brokers.

2 *BY repealing and reenacting, with amendments,*

3 Article - Business Occupations and Professions

4 Section 17-527.2(b)

5 Annotated Code of Maryland

6 (2000 Replacement Volume and 2002 Supplement)

7 BY adding to

8 Article - Business Occupations and Professions

9 Section 17-536 through 17-540, inclusive, to be under the new part "Part IV.

10 Nonresident Commercial Real Estate Brokers"

11 Annotated Code of Maryland

12 (2000 Replacement Volume and 2002 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Business Occupations and Professions**

16 17-527.2.

17 *(b) A licensed real estate salesperson or licensed associate real estate broker*

18 *may not advertise unless:*

19 *(1) the name or trade name of the licensed real estate salesperson or*

20 *licensed associate real estate broker, as the name or trade name appears on the license*

21 *certificate and pocket card issued by the Commission, is meaningfully and*

22 *conspicuously included in the advertisement; and*

23 *(2) the name of the business with which the licensed real estate*

24 *salesperson or licensed associate real estate broker is affiliated:*

25 *(i) is meaningfully and conspicuously included in the*

26 *advertisement;*

27 *(ii) on or before October 1, [2003] 2004, is displayed in a size that is*

28 *at least as large as the size of the name or trade name of the licensed real estate*

29 *salesperson or licensed associate real estate broker; and*

30 *(iii) is the full name of the business and not a logo used by the*

31 *business.*

PART IV. NONRESIDENT COMMERCIAL REAL ESTATE BROKERS.

17-536.

(A) IN THIS PART IV OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "COMMERCIAL REAL ESTATE" MEANS:

(1) REAL PROPERTY IMPROVED BY FIVE OR MORE SINGLE-FAMILY UNITS;

(2) IMPROVED AND UNIMPROVED REAL PROPERTY ZONED FOR COMMERCIAL, INDUSTRIAL, OR NONRESIDENTIAL USE BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROPERTY IS LOCATED; AND

(3) UNIMPROVED REAL PROPERTY ZONED FOR IMPROVEMENT AS MULTIFAMILY UNITS BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROPERTY IS LOCATED.

(C) "COMMERCIAL REAL ESTATE" DOES NOT INCLUDE:

(1) PROPERTY ZONED FOR AGRICULTURAL USE; OR

(2) SINGLE-FAMILY UNITS, INCLUDING A CONDOMINIUM OR CO-OP UNIT, FOR SALE OR FOR LEASE, OR OTHERWISE CONVEYED OR TO BE CONVEYED ON A SINGLE BASIS.

(D) "NONRESIDENT REAL ESTATE BROKER" MEANS AN INDIVIDUAL, PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR CORPORATION THAT IS NOT LICENSED UNDER SUBTITLE 3 OF THIS TITLE BUT IS LICENSED TO PROVIDE REAL ESTATE BROKERAGE SERVICES IN A JURISDICTION OTHER THAN THIS STATE.

(E) "NONRESIDENT REAL ESTATE SALESPERSON" MEANS AN INDIVIDUAL WHO IS NOT LICENSED UNDER SUBTITLE 3 OF THIS TITLE BUT IS LICENSED TO PROVIDE REAL ESTATE BROKERAGE SERVICES AND IS AFFILIATED WITH A NONRESIDENT REAL ESTATE BROKER.

17-537.

(A) A NONRESIDENT REAL ESTATE BROKER MAY ENGAGE IN A TRANSACTION UNDER THIS TITLE WITH RESPECT TO COMMERCIAL REAL ESTATE LOCATED IN THIS STATE AND RECEIVE COMPENSATION PROVIDED THE NONRESIDENT REAL ESTATE BROKER:

(1) PROVIDES REAL ESTATE BROKERAGE SERVICES THROUGH A REAL ESTATE BROKER LICENSED UNDER THIS TITLE;

1 (2) ENTERS INTO A WRITTEN AGREEMENT WITH A LICENSED REAL
2 ESTATE BROKER IN THIS STATE WHICH:

3 (I) SPECIFIES THE TERMS OF COOPERATION AND COMPENSATION
4 AND INCLUDES A STATEMENT BY THE NONRESIDENT REAL ESTATE BROKER THAT
5 THE NONRESIDENT REAL ESTATE BROKER AND THE NONRESIDENT REAL ESTATE
6 SALESPERSONS LICENSED AND AFFILIATED WITH THE NONRESIDENT REAL ESTATE
7 BROKER WILL BOTH ADHERE TO THE LAWS OF THIS STATE AND THIS TITLE; AND

8 (II) ALLOCATES THE RESPONSIBILITY FOR THE ACTIONS OF THE
9 NONRESIDENT REAL ESTATE BROKER IN THE TRANSACTION; AND

10 (3) COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (B) OF THIS
11 SECTION.

12 (B) BEFORE A NONRESIDENT REAL ESTATE BROKER MAY PROVIDE REAL
13 ESTATE BROKERAGE SERVICES IN THIS STATE, THE NONRESIDENT REAL ESTATE
14 BROKER SHALL MAKE WRITTEN APPLICATION TO THE COMMISSION INCLUDING:

15 (1) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
16 NONRESIDENT REAL ESTATE BROKER;

17 (2) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE BUSINESS
18 ENTITY THROUGH WHICH THE NONRESIDENT REAL ESTATE BROKER PROVIDES
19 REAL ESTATE BROKERAGE SERVICES;

20 (3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH
21 NONRESIDENT REAL ESTATE SALESPERSON WHO WILL OFFER OR PROVIDE REAL
22 ESTATE BROKERAGE SERVICES IN THIS STATE ON BEHALF OF THE NONRESIDENT
23 REAL ESTATE BROKER;

24 (4) A COPY OF THE AGREEMENT REQUIRED BY SUBSECTION (A) OF THIS
25 SECTION;

26 (5) WRITTEN EVIDENCE THAT THE NONRESIDENT REAL ESTATE
27 BROKER AND EACH NONRESIDENT REAL ESTATE SALESPERSON LISTED UNDER
28 PARAGRAPH (3) OF THIS SUBSECTION, ARE DULY LICENSED IN ANOTHER
29 JURISDICTION, AND THAT THE LICENSE IS VALID, CURRENT, AND ACTIVE;

30 (6) WRITTEN CONSENT SIGNED BY THE NONRESIDENT REAL ESTATE
31 BROKER, INDIVIDUALLY AND ON BEHALF OF THE BUSINESS ENTITY, AND BY EACH
32 NONRESIDENT REAL ESTATE SALESPERSON LISTED UNDER PARAGRAPH (3) OF THIS
33 SUBSECTION, THAT SERVICE OF PROCESS ON THE EXECUTIVE DIRECTOR OF THE
34 COMMISSION SHALL BIND THE APPLICANT IN ANY ACTION, SUIT, OR PROCEEDING
35 BROUGHT AGAINST THE BROKER OR SALESPERSON;

36 (7) WRITTEN CONSENT SIGNED BY THE NONRESIDENT REAL ESTATE
37 BROKER AND BY EACH NONRESIDENT SALESPERSON LISTED UNDER PARAGRAPH (3)
38 OF THIS SUBSECTION, TO SUBMIT TO THE JURISDICTION OF THE COMMISSION FOR
39 THE PURPOSES OF DISCIPLINARY ACTION UNDER § 17-322 OF THIS TITLE;

1 (8) ANY OTHER INFORMATION THAT IS REQUESTED BY THE
2 COMMISSION; AND

3 (9) A TEMPORARY LICENSE FEE OF \$45.

4 (C) THE COMMISSION SHALL ISSUE A TEMPORARY LICENSE TO A
5 NONRESIDENT REAL ESTATE BROKER WHO COMPLIES WITH THE REQUIREMENTS OF
6 THIS SECTION IF THE JURISDICTION IN WHICH THE REAL ESTATE BROKER HOLDS A
7 CURRENT LICENSE;

8 (1) ALLOWS A MARYLAND BROKER TO OBTAIN A TEMPORARY LICENSE
9 UNDER SIMILAR CIRCUMSTANCES; OR

10 (2) WAIVES THE EXAMINATION AND QUALIFICATION REQUIREMENTS
11 FOR LICENSURE FOR INDIVIDUALS LICENSED IN MARYLAND.

12 17-538.

13 (A) UPON APPROVAL BY THE COMMISSION, A NONRESIDENT REAL ESTATE
14 BROKER MAY ENGAGE IN A TRANSACTION IN THIS STATE WITH RESPECT TO
15 COMMERCIAL REAL ESTATE.

16 (B) A NONRESIDENT REAL ESTATE SALESPERSON LICENSED IN ANOTHER
17 JURISDICTION AND AFFILIATED WITH A NONRESIDENT REAL ESTATE BROKER MAY
18 ENGAGE IN A TRANSACTION IN THIS STATE WITH RESPECT TO COMMERCIAL REAL
19 ESTATE IF:

20 (1) THE NONRESIDENT REAL ESTATE SALESPERSON IS LICENSED WITH
21 AND PROVIDES REAL ESTATE BROKERAGE SERVICES UNDER THE DIRECT
22 SUPERVISION OF THE NONRESIDENT REAL ESTATE BROKER;

23 (2) THE NONRESIDENT REAL ESTATE BROKER SATISFIES THE
24 REQUIREMENTS OF § 17-537 OF THIS SUBTITLE; AND

25 (3) THE NONRESIDENT REAL ESTATE SALESPERSON PROVIDES REAL
26 ESTATE BROKERAGE SERVICES IN THE NAME OF THE NONRESIDENT REAL ESTATE
27 BROKER.

28 17-539.

29 ALL TRUST MONEY PAID ON ACCOUNT OF A TRANSACTION INVOLVING
30 COMMERCIAL REAL ESTATE IN THIS STATE SHALL BE RECEIVED AND DEPOSITED IN
31 THE TRUST ACCOUNT OF THE MARYLAND BROKER IN ACCORDANCE WITH PART I OF
32 THIS SUBTITLE.

33 17-540.

34 BY FILING THE WRITTEN CONSENT REQUIRED UNDER § 17-537(B)(6) OF THIS
35 SUBTITLE, THE NONRESIDENT REAL ESTATE BROKER OR NONRESIDENT REAL

1 ESTATE SALESPERSON APPOINTS THE EXECUTIVE DIRECTOR OF THE COMMISSION
2 AS AGENT TO RECEIVE A SUBPOENA, SUMMONS, OR OTHER PROCESS.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2003.